

ORDINANCE NO. 2009-O-101

AN ORDINANCE OF THE VILLAGE OF VOLENTE AMENDING THE VILLAGE'S SITE DEVELOPMENT REGULATIONS, ORDINANCE NO. 2004-O-36, SECTION 33.345(I)(4)(b), TO PERMIT ALTERNATIVE ENCASED WATER WELL SETBACKS SO AS TO CONFORM WITH THE TEXAS DEPARTMENT OF LICENSING AND REGULATION'S ADMINISTRATIVE RULES FOR WATER WELL DRILLERS AS CODIFIED AT 16 TEX. ADMIN. CODE, CHAPTER 76, SECTION 76.1000(a)(1); AND PROVIDING FOR SEVERABILITY, EFFECTIVE DATE, AND OPEN MEETINGS AND PUBLIC NOTICE REQUIREMENTS

WHEREAS, the Village of Volente enacted minimum water well setbacks as part of the Village's Site Development Ordinance, which was passed and approved by the Village Council on October 26, 2004, pursuant the Village's authority under the Constitution and laws of the State of Texas, including Chapter 212, Texas Local Government Code; and

WHEREAS, the Village of Volente finds that some of its existing setback limitations for encased wells unnecessarily exceed the encased well setback limitations imposed by the administrative rules of the Texas Department of Licensing and Regulations; and

WHEREAS, the Village of Volente finds that Section 33.343(p)(4)(B) of the Village's Site Development Regulations should be amended to permit alternative minimum setback requirements for encased wells, consistent with the standards adopted by the Texas Department of Licensing and Regulation in Volume 16, Chapter 76, Section 76.1000(a)(1) of the Texas Administrative Code; and

WHEREAS, the Village of Volente finds that the encased well setback standards of the Site Development Ordinance, as amended by this Ordinance, will protect the public health, safety, and general welfare of the general public and citizens of the Village of Volente;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF VOLENTE:

Section 1. Amendment. Section 33.345(I)(4)(b) of the Village's Site Development Regulations (Ordinance No. 2004-O-36 is hereby amended to read in its entirety:

- (b) A well shall be located a minimum horizontal distance of one hundred fifty feet (150') from any concentrated sources of potential contamination such as, but not limited to, existing or proposed livestock or poultry yards, cemeteries, pesticide

mixing/loading facilities, and privies, except in the case of monitoring, dewatering, piezometer, and recovery wells, which may be located where necessity dictates. A well shall be located a minimum horizontal distance of one hundred feet (100') from an existing or proposed septic system absorption field, septic system spray area, or a dry litter poultry facility, and fifty feet (50') from any property line provided the well is located at the minimum horizontal distance from the sources of potential contamination listed in this subsection (p).

- (i) Alternative Setbacks for Encased Wells. The minimum setback from all potential sources of contamination for wells that are pressure cemented or grouted to a minimum of one hundred feet (100') below the surface or to the water table, whichever is less deep, in compliance with Title 16 of the Texas Administrative Code, Chapter 76, Section 76.1000(a)(1), may be reduced to fifty feet (50'). Wells constructed in this manner shall be located no closer than five feet (5') from a property line.

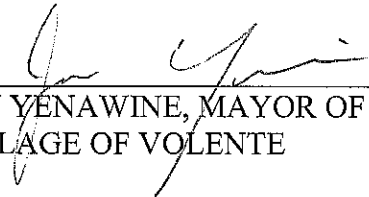
Section 2. **Findings of Fact:** All of the facts and premises recited in the prologue to this Ordinance are hereby found to be true and correct legislative and factual findings of the Village of Volente and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Section 3. **Severability:** In the event that any provision of this Ordinance shall be found by a court of competent jurisdiction to be void, unlawful, or unenforceable, such void, unlawful, or unenforceable provision shall be severed, and all remaining provisions of this ordinance and the ordinance it amends shall remain in full force and effect as though such void or unenforceable provisions had never formed a part of this ordinance.

Section 4. **Effective Date:** This Ordinance shall take effect immediately from and after its passage and publication of its enacting ordinance in accordance with the provisions of *Chapter 52 of the Texas Local Government Code*.

Section 5. **Open Meetings:** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551 of the Texas Government Code*.

PASSED AND APPROVED on the 21st day of April, 2009, by a vote of 5
(ayes) to 0 (nays) to 0 (abstentions) of the Village Council of the Village of Volente,
Texas.



JAN YENAWINE, MAYOR OF THE
VILLAGE OF VOLENTE

ATTEST:



JENNIFER ZUFELT, CITY SECRETARY